

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 4, 1999

DIVISION ONE

B128132 People (Not for Publication)
v.
Jones

The judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B126634 People (Not for Publication)
v.
Richard

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B123459 People (Not for Publication)
v.
Gonzalez et al.

The judgments are affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

November 4, 1999-Continued

DIVISION ONE (Continued)

[illegible]

The judgment is reversed as to count 1, the charge of assault with a deadly weapon, and the matter is remanded for a new trial.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B122918 Hovanesian & Hovanesian (Not for Publication)
v.
J.C. Henry et al.

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

[illegible]

The judgment is reversed. Plaintiff Herbert Hanson is to recover costs on appeal.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

November 4, 1999-Continued

DIVISION ONE (Continued)

B127266 People (Not for Publication)
v.
Eaton

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B128809 People (Not for Publication)
v.
Prado

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

B130945 People (Not for Publication)
v.
Frank H.

The order of wardship is affirmed.

Ortega, J.

We concur: Spencer, P.J.
 Masterson, J.

DIVISION ONE (Continued)

B126744 People (Not for Publication)
v.
Mendez

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
 Masterson, J.

B130302 People v. Wells (Not for Publication)

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B133274 PGP Industries, Inc. (Not for Publication)
v.
Superior Court, Los Angeles County
(Rodarte, Jr., et al., r.p.i.)

Let a peremptory writ of mandate issue directing respondent court to vacate its order denying the summary judgment motion of petitioner PGP Industries, Inc., and to issue a new and different order granting summary judgment in favor of PGP Industries, Inc., and against real party in interest Matias Rodarte, Jr. Petitioner PGP Industries, Inc., is entitled to costs incurred in connection with this proceeding.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

DIVISION TWO

B128111 Helene Curtis, Inc.
v.
Assessment Appeals Board of Los Angeles County

Filed order certifying opinion for publication.

B127891 People (Certified for Publication)
v.
Vichroy

The judgment is reversed.

Boren, P.J.

We concur: Zebrowski, J.
Mallano, J. (Assigned)

B127817 Johnson (Certified for Publication)
v.
Kotyck

The judgment is affirmed.

Boren, P.J.

We concur: Zebrowski, J.
Mallano, J. (Assigned)

B122163 People (Not for Publication)
v.
Muhammad

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
Zebrowski, J.

DIVISION TWO (Continued)

B130678 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Oscar A.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Nott, J.

B123880 Cohoat (Not for Publication)
 v.
 Klijian et al.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Zebrowski, J.

B130882 People (Not for Publication)
 v.
 Leroy W.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Zebrowski, J.

November 4, 1999-Continued

DIVISION TWO (Continued)

[illegible]

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

11-5-99
106640-99

The HONORABLE JOHN ZEBROWSKI, Retired Associate Justice of the Court of Appeal, Second Appellate District, Division Two, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a Justice thereof, on the following dates:

November 4, 1999 To February 4, 2000

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

Dated: November 4, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

November 4, 1999-Continued

DIVISION FOUR

[illegible]

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B121020 Midiman (Certified for Publication)
v.
Farmers Insurance Company

The judgment is reversed with respect to the award of attorney fees to Midiman. It is affirmed in all other respects. Farmers is to recover its costs on appeal.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

DIVISION FIVE

B113994 Gregory Nicholas (Not for Publication)
v.
City of Santa Monica

The judgment is affirmed. Parties are to bear their own costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B130249 People (Not for Publication)
v.
Eddie Office

The clerk of the superior court is ordered to correct the abstract of judgment reflect a middle term of two years for the violation of Health and Safety Code section 11377, subdivision (a), a 180-day concurrent sentence for the violation of Health and Safety Code section 11364, and to forward a corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
Godoy Perez, J.

B131471 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Maria R.
In re Diana R.

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B133699 Los Angeles County D.C.F.S. (Not for Publication)
v.
Daphne D.
In re Jovanda D.

The judgment is affirmed.

Turner, P.J.

We concur: Godoy Perez, J.
Weisman, J. (Assigned)

DIVISION FIVE (Continued)

B123662 People (Not for Publication)
v.
Peter Montellano et al.

We direct the clerk of the superior court to modify the abstract of judgment for defendant Montellano to reflect the actual sentence of the trial court insofar as the trial court ordered that the sentence in the instant case was to run consecutively to a sentence previously imposed on defendant Montellano in a separate case (Super. Ct. L.A. County No. VA041564). We also direct the clerk to modify the abstract of judgment as to each defendant to reflect an upper term of 5 years on counts 1 and 2 for the section 12022.5, subdivision (a) enhancements rather than the 10-year terms imposed by the trial court, and further direct the clerk to modify the abstract of judgment as to each defendant to strike the one-year terms imposed for the section 12022, subdivision (a) (1) enhancements on counts 1 and 2. In all other respects, the judgment of conviction as to each defendant is affirmed.

Weisman, J. (Assigned)

We concur: Armstrong, Acting P.J.
 Godoy Perez, J.

B128341 Santa Clarita Organization (Not for Publication)
v.
City of Santa Clarita

The judgment is affirmed. Defendants shall recover their costs on appeal from plaintiff.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION FIVE (Continued)

B130556 Mylan Laboratories (Certified for Publication)

v.

Terrence Soon-Shiong et al.

Patrick Soon-Shiong et al.

The order denying intervention and the order denying a preclusive order are affirmed. The matter is remanded to the superior court with directions to treat the motion to intervene as a motion to assert a privilege and to conduct a hearing on any contested issues related to privilege that it deems necessary to decide. The superior court is similarly directed to decide issues relating to the work-product doctrine, including whether or not it has been properly asserted in the superior court. The superior court is also directed to state reasons for any rulings it makes with respect to any issues of privilege and work-product. Costs on appeal are awarded to respondent Mylan.

Weisman, J. (Assigned)

We concur: Turner, P.J.

Godoy Perez, J.

B129995 Los Angeles County, D.C.F.S. (Not for Publication)

v.

Marlen R.

In re Jared S.

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J. (Opinion)

Godoy Perez, J.

DIVISION FIVE (Continued)

B122487 People (Not for Publication)
v.
Jesus Manuel Gamboa

The clerk of the superior court is directed to amend the abstract of judgment to reflect a \$200 parole revocation fine under Penal Code section 1202.45, to be suspended unless defendant has his parole revoked, and shall then forward the corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Weisman, J. (Assigned)

We concur: Turner, P.J.
Godoy Perez, J.

B132628 German T. (Not for Publication)
v.
S.C.L.A.

The petition for an extraordinary writ of mandate is denied on the merits.

Turner, P.J.

We concur: Grignon, J.
Godoy Perez, J.

B128170 Leon and Renne Jenkins
v.
John Niemier

Filed order denying petition for rehearing.

DIVISION FIVE (Continued)

B134431 People (Not for Publication)
v.
Peter Montellano

The original September 10, 1997, judgment of conviction in this case is affirmed. The clerk of the superior court is directed to prepare a corrected abstract of the judgment of conviction that shows defendant was sentenced to 27 years to life on count 2, that count 2 was a felony that was not reduced to misdemeanor, that count 1 was reduced to a misdemeanor, and that defendant was ordered to serve 309 days in the county jail on count 1 with credit for 309 days already served. The corrected abstract is to be forwarded to the Department of Corrections. The "modified" abstract dated July 14, 1998, that reflects the improper "resentencing" of defendant in this case by another judge who presided over a separate unrelated case involving defendant that was tried after the sentencing in this case occurred, is vacated and the clerk of the superior court is directed to notify the Department of Corrections that the "modified" abstract dated July 14, 1998 has been vacated and replaced by the corrected abstract of the original judgment that we have ordered prepared.

Weisman, J. (Assigned)

We concur: Armstrong, Acting P.J.
 Godoy Perez, J.

B134041 Wilma V. (Not for Publication)
v.
Superior Court of Los Angeles County
Los Angeles County, D.C.F.S.

The petition is denied.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B126179 Sara Sandel (Not for Publication)
v.
Alexander Sandel

The judgment is affirmed. Respondent Sara Sandel to recover costs on appeal.

Armstrong, J.

We concur: Grignon, Acting P.J.
Godoy Perez, J.

B126687 People (Not for Publication)
v.
Walter Larkin

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
Godoy Perez, J.

B123923 William Walker et al. (Not for Publication)
B126111 v.
Jacqueline Connors Appelbaum et al.

The judgment is affirmed. Respondents are to recover their costs on appeal.

Armstrong, J.

We concur: Grignon, Acting P.J.
Godoy Perez, J.

DIVISION FIVE (Continued)

B120912 People (Not for Publication)
v.
Donald Brown

The judgment is modified to impose a \$200 parole revocation fine, suspended, pursuant to section 1202.45. The judgment is affirmed in all other respects.

Armstrong, J.

We concur: Turner, P.J.
Godoy Perez, J.

B128645 People (Not for Publication)
v.
Gregory McKinney

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Godoy Perez, J.

[illegible]

The judgment is modified to impose a parole revocation fine of \$1,000, suspended, pursuant to section 1202.45. As modified, the judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
Godoy Perez, J.

DIVISION FIVE (Continued)

B124047 Ruby Z. Coker et al. (Not for Publication)
 v.
 Robert E. Finch et al.

The judgment and sanctions order are reversed. Appellants to recover costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION SIX

B123047 Marshall et al. (Not for Publication)
 v.
 Lakeview Partners et al.
 Azurite, Inc.

We affirm the judgment of nonsuit as to all defendants except Azurite. We uphold the post-judgment order granting new trial to Azurite. As to the cross-appeal, we uphold the post -judgment order denying Azurite's motion for judgment notwithstanding the verdict. The parties are to bear their own costs on appeal.

Gilbert, Acting P.J.

We concur: Coffee, J.
 Matz, J. (Assigned)

B128126 People (Not for Publication)
 v.
 Brown

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
 Matz, J. (Assigned)

November 4, 1999-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is reversed. Costs are awarded to appellants.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B129072 Global Income Management (Not for Publication)
v.
Auto Buyers Credit Corp.

The judgment is affirmed. Costs to respondent.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B124671 Mirzai (Not for Publication)
v.
Good

The judgment of dismissal, as corrected by the trial court in its order filed September 11, 1998, is affirmed. Respondents are awarded their costs on appeal.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SIX (Continued)

B122436 Taylor
v.
Lockheed Martin Corp.

Filed order granting request to take judicial notice. Submission of the cause is hereby vacated. The parties are directed to file supplemental briefs.

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., Chavez, J. (Assigned), and Emma Jean Amos, Deputy Clerk.

Each of the following:

B111134 People v. Brewer
B120376 People v. Cottle
B121849 People v. Harris & Edwards
B122119 People v. Williams
B122552 People v. Finley
B122778 People v. Freeman
B124219 People v. Farley & Flemings
B125770 People v. Nguyen
B127269 People v. Torres
B127730 People v. Thompson
B127895 People v. Torres
B128032 People v. Brooks
B128339 People v. Escoto
B128366 People v. Brown
B128985 People v. Nashika J.
B129489 People v. Elias
B129717 People v. Talamantez
B130694 People v. Huerta
B131145 People v. Johnson
B128445 Los Angeles County D.C.F.S. v. Lisa L.
B133248 Anzolette B. v. S.C.L.A.
B133811 Teri F. v. S.C.L.A.
B129205 Jones v. Marina Moose, Inc.

Argument waived, cause submitted.

DIVISION SEVEN (Continued)

B127553 People
 v.
 Marquez

Merits:
Argued by Robert B. Horner for appellant and no appearance by counsel for respondent. Cause submitted.

B125667 People
 v.
 Thompson

Merits:
Argued by Gerson Simon for appellant and by Rori Michelle Ridley, deputy attorney general, for respondent. Cause submitted.

B126633 People
 v.
 Venegas

Merits:
Argued by Linda Starr for appellant and by Arthur H. Auerbach, deputy attorney general, for respondent. Cause submitted.

B130944 People
 v.
 Leland Dominic C.

Merits:
Argued by Jill A. Thomas for appellant and by Rori Michelle Ridley, deputy attorney general, for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B128748 People

v.

Cornejo

Merits:

Argued by Leslie Greenbaum for appellant and by Rama R. Maline, deputy attorney general, for respondent. Cause submitted.

B126626 People

v.

Ubillus

Merits:

Argued by Stuart Miller for appellant and by Valerie A. Baker, deputy attorney general, for respondent. Cause submitted.

B109409 People

v.

Valentine

Merits:

Argued by Dennis A. Fischer for appellant and by Michael J. Wise, deputy attorney general, for respondent. Cause submitted.

b119503 California Housing Council

v.

City of Malibu

Merits:

Argued by Christopher M. Harding for appellant and by Michael Colantuono for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B117223 People
 v.
 Vildosola and Jacobo

Merits:

Argued by Michael A. Brush for appellant Jacobo, by Juliana Drous for appellant Vildosola and by Wendy Chase Arenson, deputy attorney general, for respondent. Cause submitted.

B128451 Marine Midland Bank
 v.
 Salsman

Merits:

Argued by Melvin D. Salsman appellant in propria persona and no appearance by respondent. Cause submitted.

B123647 People
 v.
 Stone

Oral argument continued to December 2, 1999, at 10:00 a.m.

B120623 People
 v.
 Pierce

Oral argument continued to December 2, 1999, at 10:00 a.m.

B126481 Barden
 v.
 Barden

Merits:

Argued by Jay Oberholtzer for appellant and by Russell Varn for respondent. Cause submitted.

Court recessed at 12:00 P.M.

DIVISION SEVEN (Continued)

The Court reconvened at 2:00 P.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., Chavez, J. (Assigned), and Emma Jean Amos, Deputy Clerk.

B116541 People
 v.
 Missman

Merits:

Argued by Susan P. Stone for appellant and by Martin L. Pitha, deputy attorney general, for respondent. Cause submitted.

B127651 Ramirez
 v.
 W.C.A.B.
 National Union Fire Insurance of Pitts

Merits:

Argued by Anthony W. Beck for petitioner and by Thomas W. Morrow for respondent. Cause submitted.

B123336 Howser
 v.
 City of Long Beach, et al.
 California State Land Commission

Merits:

Argued by Richard I. Fine for appellant, by M. Katherine Jenson for respondent City of Long Beach and by Alan Hager, deputy attorney general, for respondent California State Land Commission. Cause submitted.

DIVISION SEVEN (Continued)

B116312 Drexler
 v.
 Schafler

Merits:

Argued by Norman L. Schafler appellant in propria persona and by David Drexler respondent in propria persona. Cause submitted.

B125051 Ortona
 v.
 San Paolo Bank

Merits:

Argued by Gerald M. Serlin for appellant and by Cheryl A. Orr for respondent. Cause submitted.

B126932 Calloway
 v.
 Calloway Entertainment Inc., et al.

Merits:

Argued by Marc A. Karlin for appellant and by Roy G. Rifkin for respondent. Cause submitted.

B128771 Qubain
 v.
 Barry Controls, Inc.

Merits:

Argued by Richard A. Love for appellant and by Lee T. Paterson for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B127604 Mason
 v.
 County of Los Angeles

Merits:
Argued by Katherine E. Stone for appellant and by Peter Gutierrez, deputy
county counsel, for respondent. Cause submitted.

Court adjourned at 4:31 P.M.

B126970 People
 v.
 Givens

Filed order denying petition for rehearing.

B123018 People
 v.
 Makimoto

Filed order modifying opinion. Petition for rehearing is denied. (No
change in the judgment)